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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the combined second and third periodic reports of Andorra

Addendum

Information provided by Andorra in follow-up to the concluding observations*

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A. Introduction

1. The Committee on the Elimination of Discrimination against women (hereinafter the Committee), at its 1165th and 1166th meetings, held on 4 October 2013, adopted its concluding observations (CEDAW/C/AND/CO/2-3) after consideration of the combined second and third periodic reports of Andorra. The Committee asked for information to be provided within two years on the follow-up to the recommendations contained in paragraphs 22 and 32.

2. The Principality of Andorra provides below information relating to the implementation of the Committee's recommendations.

B. Response to the recommendations in paragraph 22 of the concluding observations

Recommendation g, paragraph 22

To accelerate the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence

3. On 22 April 2014 the Government of the Principality of Andorra ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Andorra was the tenth State to ratify the Convention, allowing its entry into force on 1 August 2014.

Recommendation a, paragraph 22

To ensure the adoption of a comprehensive law addressing all forms of violence against women, establishing measures to prevent and combat them

4. Following its ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Andorra on 15 January 2015 adopted Act 1/2015 on the eradication of gender-based violence and domestic violence, which is based on the precepts of that Convention.

5. The purpose of Act 1/2015 is to take comprehensive action to prevent and combat gender-based violence and domestic violence and to establish victims' rights and awareness-raising, prevention, training, research, intervention, protection and judicial protection measures to meet the needs of the victims of any manifestation of gender-based violence or domestic violence.

6. In its article 2 it sets out the definitions of gender-based violence and domestic violence as follows:

7. Gender-based violence: Any form of physical or psychological violence exercised against any person by reason of sex or gender that involves or may involve injury or suffering of a physical, sexual, psychological or economic nature, as well as any threat to exercise such violence, coercion, or arbitrary deprivation of liberty, whether in private or in public. Gender-based violence is a type of discrimination involving a violation of human rights.

8. Domestic violence: Any act of physical, sexual, psychological or economic violence that occurs within the family or home or between spouses or domestic

partners, current or former, regardless whether the perpetrator shares or has shared the same residence as the victim.

9. On 15 January 2015, the *Consell General* (national Parliament) approved the "Agreement for Promotion of Gender Equality by the *Consell General*". The Agreement, on which all parliamentary groups reached a consensus, calls for the preparation of a White Paper on Equality with the support of the Government of Andorra and the collaboration of the Institute of Andorran Studies and the Ministry of Social Affairs, Justice and the Interior. It seeks to collect information on the real equality situation so that an action strategy can be devised by the *Consell* and all other public institutions. In addition, the Agreement provides for the implementation of the recommendations contained in the Inter-Parliamentary Union's Plan of Action for Gender-sensitive Parliaments.

10. Further to the agreement adopted on 15 January 2015, the Government of Andorra has begun preparatory work on the White Paper on Equality, following the recommendations of the Council of Europe with respect to equality of opportunity and on the basis of public authorities' need, and commitment, to promote conditions that will enable obstacles to be overcome and real equality between persons to be achieved. The White Paper on Equality and the Act on which it is based seek to eliminate gender discrimination, but also to influence and include other groups that are discriminated against.

11. To guarantee that, a 2017 budget item has been created for the preparation of the White Paper on Equality and the enactment of a comprehensive law on equality that will strengthen the existing legislative framework.

Recommendation c, paragraph 22

To strengthen its efforts to prevent violence against women, including by conducting awareness-raising and education campaigns to inform women and girls about their right to be free from violence and about available support and legal remedies for victims

12. Act 1/2015 of 15 January 2015 on the eradication of gender-based violence and domestic violence recognizes, in article 5, the following rights of victims of gender-based violence and domestic violence: the right to information, the right to comprehensive social assistance, the right to comprehensive health and psychological care, the right to legal assistance, the right to protection and privacy, and the right to information on the perpetrator's procedural and personal situation.

13. In addition, it calls for the following awareness and prevention measures: awareness and prevention in the field of education (article 6), awareness and prevention in the social and health field (article 7), awareness and prevention in the labour field (article 8), awareness and prevention in the area of advertising and the media (article 9), awareness and prevention on the part of public authorities (article 10), continuing education programmes for professionals (article 11), and research programmes to acquire knowledge of all aspects of the phenomenon of gender-based and domestic violence (article 12).

14. In accordance with the legislative provisions in Act 1/2015, the Decree setting out the regulations governing the National Commission for Prevention of Gender-based Violence and Domestic Violence (CONPVGD) was approved on 9 March

2016. Article 20 of those regulations establishes that CONPVGD is a political and technical collegiate body whose objective is to formalize coordination and cooperation between the various ministries and departments of the Government involved in preventing and combating gender-based and domestic violence.

15. CONPVGD convened its first meeting on 27 May 2016, at which time an agenda of actions to be taken in advance of the next meeting was established.

16. Also, on 27 January 2016 the government approved the Decree setting out the organization of the Ministry of Social Affairs, Justice and the Interior. Among other things, the Decree creates the Equality Policies Area within the Department of Social Affairs. The duties of that Area are to enhance and improve the fight against the inequalities and discrimination faced by the most vulnerable persons and groups in that regard, as well as to develop cross-cutting programmes and actions aimed at preventing and combating gender-based violence and domestic violence.

17. The new Equality Policies Area is conceived as a body that will coordinate the endeavours of the various institutions and organizations that work, directly and indirectly, to eliminate all manifestations of gender-based violence and domestic violence.

Recommendation d, paragraph 22

To provide adequate assistance to women victims of violence, including migrant women, and ensure that victims have access to legal remedies, such as restraining orders, and to shelters and medical and psychosocial support, in cooperation with non-governmental organizations

18. Within the Equality Policies Area is a Gender-based and Domestic Violence Victims' Support Team (EAVVGD). With the restructuring of the Ministry of Social Affairs, Justice and the Interior, there has been an enhancement of care for victims of gender-based violence in other areas, such as the labour market and the wider community, as provided in the above-mentioned Act 1/2015.

19. EAVVGD is a governmental entity whose mandate is to provide support and care for women who are victims of gender-based and domestic violence. It began its work in 2006 under the name of Women's Comprehensive Care Team. It is an interdisciplinary team that provides comprehensive care to women that have suffered or are suffering from gender-based violence. Its action comprises:

(a) Civil and criminal legal aid;

(b) Economic benefits that cover kindergartens, leisure activities, food, psychological treatment for children, and rent subsidies;

(c) Psychological assessment and follow-up;

(d) Socio-educational counselling;

(e) Tracking of the history of violence and empowerment to help the woman overcome the abuse.

20. A review is currently under way of the existing care and referral procedures of the services and professionals concerned so that the requisite detection and action protocols can be developed to ensure coordinated, comprehensive care and avoid

situations of secondary victimization. Concretely, cooperative work has been undertaken with professionals in the fields of justice, police, mental health and social work.

21. The team is conceived of as a specialized support service that relies on various professionals trained in these issues and various services, including shelter resources.

Recommendation e, paragraph 22

To provide public funding to non-governmental organizations that operate shelters

22. There is currently no non-governmental organization in Andorra that manages shelters for women victims of gender-based and domestic violence. The shelter resources that do exist are managed by EAVVGD and have the following objectives:

(a) To offer special, dignified and safe temporary accommodation and coexistence for women victims of gender-based violence, alone or with their sons and daughters, who find themselves in urgent need of care and do not want to, or cannot, remain in their environment;

(b) To provide comprehensive support and care to the women and children sheltered, to enable them to get their lives together again;

(c) To give the women sheltered space and time to reflect on their personal situation and reconsider their life orientation.

Recommendations c and f, paragraph 22

To strengthen its efforts to prevent violence against women, including by conducting awareness-raising and education campaigns to inform women and girls about their right to be free from violence and about available support and legal remedies for victims

To provide training to the police on gender-sensitive methods for investigating cases of violence against women and for providing age-appropriate advice to victims, taking into consideration their socioeconomic situation

23. Another of EAVVGD's functions is prevention, awareness-raising and training on these issues for the various agents involved.

24. As regards prevention, since 2008 a number of training workshops have been held at educational centres for adolescents 14 to 16 years of age, to help prevent abusive behaviours, familiarize them with gender stereotypes that distort the development of masculine and feminine identities, prevent abusive behaviours in partner relationships, and stimulate reflection on the factors that influence gender-based violence. Beginning two years ago, these workshops have been given through the Women's Association of Andorra (ADA).

25. They are currently being reassessed in the light of a need for more extensive prevention and for students to be able to internalize best practices. These changes will mean training faculty to act as agents of change throughout all parts of the Centre's curriculum, from the beginning of schooling until the completion of mandatory education.

26. As regards awareness-raising and disclosure of gender-based violence, since 2008 awareness campaigns have been conducted for the general public on the commemorative days, 25 November and 8 March. That procedure is currently under review, as it is deemed advisable that campaigns not be conducted only on the commemorative days but that an annual project be established with the objective of carrying out various campaigns throughout the year.

27. In the area of training, on 11 May 2016, during his evaluation visit, Nils Muižnieks, the Commissioner for Human Rights of the Council of Europe, gave a course on the rights of children and women for members of judicial bodies, law enforcement personnel and social workers. Mr. Muižnieks was also able to pay a visit to the EAVVGD shelter resources, accompanied by the responsible professionals.

28. Finally, it should be remembered that Act 1/2015 of 15 January 2015 on the eradication of gender-based and domestic violence provides, in article 11, for continuing education programmes for professionals engaged in detection, intervention and prevention in cases of gender-based and domestic violence. Two types of training courses have been established: basic training for those professionals that are indirectly involved in gender-based and domestic violence situations; and more rigorous training for those professionals that take direct action in cases of gender-based and domestic violence.

Recommendation b, paragraph 22

To amend the Criminal Code to criminalize all forms of violence against women, including sexual violence and stalking, and establish measures to provide victims with redress

29. In accordance with the Committee's recommendations, Andorra refers to the explanation it gave during the presentation of the second and third combined reports and repeated following the publication of the concluding observations. The Andorra Penal Code outlaws all forms of violence against any person. Concretely, it defines offences in a general way in articles 113, 114, 116 and 476, with aggravating circumstances defined in articles 30.3, 30.5, 30.6 and 31. An unofficial translation of the said articles can be found in the annex.

30. Andorra decided to tackle the problem of domestic violence in a comprehensive manner and undertook a reform of the Penal Code so as to introduce the necessary amendments for cases of domestic violence and encourage an adequate punitive response to such actions. Thus, Act 91/2010 of 16 December 2010 amending articles 113, 114, 476 and 478 of the Penal Code of 21 February 2005 abolished the previous requirement that domestic abuse be habitual and added an additional clause linking it to the penalties meted out on account of the injury caused. Hence, the typical behaviours dealt with in articles 113 and 476, which provide penalties for ill-treatment and/or assault and battery, will now incur a severer penalty when they occur in the home, since they always involve the offence of domestic abuse that is the subject of article 114.

31. As regards the criminalization of all forms of violence against women, including sexual violence and harassment, the Government of Andorra notes that these offences are already defined as such in the Penal Code: specifically, in

article 144 (sexual assault), article 145 (sexual assault constituting rape), article 146 (aggravated assault), article 147 (non-consensual sexual acts) and article 149 bis (sexual harassment). The text of the said articles may be consulted in the annex.

32. In accordance with article 19 of the Code of Criminal Procedure, victims can bring a civil action concurrently with the criminal prosecution, to seek damages for the harm they have suffered. They may do so directly, through a lawyer, or ask the prosecution service to do so on their behalf. The text of the article mentioned can be found in the annex.

C. Response to the recommendations in paragraph 32 of the concluding observations

Recommendation a, paragraph 32

To decriminalize abortion and provide access to legal abortion in cases of threats to the life or health of the pregnant woman, rape, incest and severe foetal impairment

33. The Government of Andorra has not taken any measures to implement Recommendation a, paragraph 23. It refers to the information provided in the replies to the Committee's previous questions concerning the presentation of the second and third combined reports of Andorra (CEDAW/C/AND/Q/2-3/Add.1).

34. Four political parties participated in the campaign leading up to the general election of 1 March 2015. Two of these parties had as a plank in their electoral programmes the decriminalization of abortion in accordance with international standards.

35. During the second cycle of the universal periodic review, ending in September 2015, Andorra rejected the recommendations it had received relating to the decriminalization of abortion under certain conditions. An amendment of the Penal Code in that sense would first require the amendment of article 8.1 of the Constitution of the Principality of Andorra, which guarantees the right to life and fully protects it at every stage. For now, the Government of Andorra has no intention to amend the Constitution.

Recommendation b, paragraph 32

To ensure affordable access for women and girls to modern methods of contraception and educate them about the risks of early pregnancy and sexually transmitted diseases, including HIV/AIDS

36. On this issue, it should be noted that in primary education, the subjects dealt with relate to the reproductive function. The course material is found in the science and technology curriculum and is sequenced over the six courses of that curriculum.

37. The natural sciences syllabus in secondary education includes four credits each year in health education, which is studied by all students in Andorra between the ages of 12 and 16. The credit courses deal with such topics as sexual and reproductive health and sexually transmitted diseases.

38. At the upper secondary level the goal is to develop attitudes and promote responsibility through the acquisition of one's own skills in order to be able to take

more autonomous action in fields such as health and personal hygiene. In particular, this takes the form of immunology (AIDS is studied as a disease of the immune system) and procreation (the control of procreation, birth control etc.). Workshops on HIV/AIDS are also organized in secondary schools.

Recommendation c, paragraph 32

To ensure affordable access for all migrant women and girls to the health-care system and consider amending the legislation restricting access to health care on the basis of legal residence

39. On 24 April 2014, Act 6/2014 on health and social services was enacted; it completes the Andorran social protection system, which basically consists of social security, the healthcare system and the system of health and social services. The Act provides that social services shall be focused on the whole population and, in particular, on those persons in a situation of social need, dependence, social exclusion or risk. It also establishes a portfolio of health and social services that affords a set of technical, economic and technological benefits.

40. On 18 May 2016, regulations were approved that govern the economic benefits consisting of health and social services, which categorizes such benefits and sets out the pertinent general requirements and beneficiaries' rights and duties. An additional provision establishes that in unforeseen cases of extreme urgency and need that call for humanitarian intervention, aid can be granted to ensure the livelihood and dignity of individuals. In that way, the provisions laid down in Act 6/2014 and its Regulations recognize the right to certain social benefits without requiring legal residence in the country. Such benefits are provided as occasional economic assistance, regulated by articles 13 to 17 of the regulations that govern the economic benefits consisting of health and social services.

Recommendation d, paragraph 32

To devise and implement gender-sensitive programmes to prevent HIV/AIDS and include disadvantaged and marginalized groups of women, such as those in prostitution and migrant women, therein

41. In 2015 three new cases of HIV infection were diagnosed, placing the country's incidence rate at 3.87/100,000 population, below the European average (7.9/100,000 inhabitants in 2014). Since 2004 Andorra has had an HIV/AIDS monitoring protocol based on an individual, anonymous and confidential reporting system. The gender breakdown of all reported cases is 83.56 per cent male and 16.43 per cent female. The prevalence of HIV/AIDS in Andorra is 0.0942 per cent, with a total of 73 cases.

42. As regards HIV/AIDS prevention, Andorra systematically conducts educational activities to prevent HIV/AIDS and other sexually transmitted diseases, in all schools in the country. These are part of the health education programme in schools and emphasize modes of transmission, preventive measures, the elimination of stigmatization and marginalization of the disease, as well as decision-making and life attitudes. Primary care includes a programme to inform young people on matters of sexuality; for the rest of the population prevention is treated together with the prevention of other sexually transmitted infections. As regards diagnostic tests for

early detection, they can be done at any of the country's health centres, which guarantee confidentiality.

43. It should be noted that the Penal Code defines the offences of establishment of prostitution (article 150), encouragement of prostitution (article 151) and procuring (article 152). The text of the said articles may be consulted in the annex.

44. That being so, and considering that in the last two years only one sentence has been handed down for an ongoing felony crime of encouraging child prostitution, it has not been deemed necessary to establish specific HIV/AIDS prevention programmes for women who work as prostitutes.